

Meeting behind closed doors, the House Public Works Committee gave a receptive audience to a broad-based attack on the National Environmental Policy Act (NEPA) that would exempt major federal public works and highway projects from environmental reviews.

Key members of the committee, piqued by the flood of environmentalist lawsuits that have held up many projects authorized by Congress, mapped their strategy at a super-secret meeting of the panel in early March.

The transcript of the hearing, leaked last week, is full of condemnations of NEPA as a menace. It also quotes some congressmen as calling the judges who have used the law to block federal projects ignoramuses.

Rep. John A. Blatnik (D-Minn.), chairman of the Public Works Committee, was ill and did not attend the controversial meeting of the panel, but he is known to favor environmental impact statements "whenever there is a federal impact."

Bloc to blockade. The strategy of the panel's anti-NEPA bloc is to amend every major public works and highway bill with statements exempting the bill's projects from NEPA reviews.

"If you build this up to a point in time you may then find some way of modifying and amending the act," said committee chief counsel Richard Sullivan, a proponent of the NEPA attack. "This is the real answer. If you can build up enough pressure to amend the basic act out of the Merchant Marine Committee, this is the way you should go." (Merchant Marine and not Public Works has jurisdiction over NEPA and amendments to it.)

Rep. Jim Wright (D-Tex.) suggested making a retroactive finding in this year's Rivers and Harbors Act that projects already authorized by the committee were presumed automatically to have a favorable environmental impact.

Wright's point got strong support from the panel's then acting chairman, Rep. Robert E. Jones (D-Ala.). "It seems to me that after a project has been analyzed and considered in the democratic, legislative process, that should have some finality," Jones said at the meeting.

Another target of the committee's barbs was the federal judges who have invoked NEPA consistently in recent months to block construction projects.



Rep. Robert E. Jones
"A lot of ignoramuses."

Court suits, Jones said, were being "maliciously used to halt the projects that Congress has worked for years and years to accomplish. . . . You have a bunch of ignoramuses who are judges who are not respecting what has been done here."

In a plot to cut back the number of NEPA court cases, the committee amended this year's House water quality bill to make it difficult, if not impossible, for citizen groups to file suits against federal projects unless they could show a direct interest. The full House adopted the provision and it is

expected to be a key issue in the House-Senate conference on the measures the two passed.

There is some grouching from the House bill's proponents that the closed-door testimony was released last week in an attempt to discredit the House conferees.

These sources think it is unusual that more than two months after the meeting was held and shortly before House and Senate conferees were to begin their meetings, someone decided to release the hearing transcript in violation of committee rules. "Perhaps there are some who don't want a bill of any kind," said one.

Other members who took an anti-NEPA position during the closed hearing were representatives William Harsha (R-Ohio), the ranking minority member; James Kee (D-W. Va.), Robert Roe (D-N.J.), Patrick Caffery (D-La.), Howard Baker (R-Tenn.), Roger Zion (R-Ind.), James Cleveland (R-N.H.), and John Terry (R-N.Y.). No member expressed a pro-NEPA view.

FHA-insured housing may get performance code

The performance criteria developed by the federal government for its experimental housing program, Operation Breakthrough, probably will be applied in some form to all private housing financed by mortgages insured by the Federal Housing Administration (FHA). This would include multifamily high-rise structures and one-family housing, both rental and sale type.

The possibility was suggested, almost casually, last week by Harold B. Finger, assistant secretary for research and technology of the Department of Housing and Urban Development (HUD). He told a symposium on the performance concept in buildings that the performance guide criteria developed for Operation Breakthrough "are being considered in the development of the minimum property standards that are used as the basis for federal mortgage insurance." The symposium, in Philadelphia, was sponsored by the International Union of Testing and Research Laboratories for Material and Structures, International Council for Building Research Studies and Documentation, and the American Society for Testing and Materials.

Finger described the criteria, devel-

oped by the National Bureau of Standards, as, "a new, effective benchmark for design efforts and evaluation of innovative technology, and a guide of good practice for improving code administration."

But some in the industry, including a few building inspectors, call the codes a forerunner of a national code for housing construction. Others questioned the legality of the standards. One code official said they were written without congressional mandate (ENR 11/26/70 p. 10).

But the standards, or officially, the Performance Guide Criteria, are expected to become a part of the industry, although Finger offered no estimate of when they might be incorporated in FHA's minimum property standards.

Finger said the development of the criteria indicated that "the whole family of test methods and procedures needs to be reevaluated in light of their ability to realistically forecast performance in actual service, for the goal is not merely to demonstrate compliance with a test method, but to employ the test method to demonstrate compliance with a performance requirement."